

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over the patent to Junkers in view of the patent to Berneuil.

Also, the claims are rejected under 35 U.S.C. 112.

In connection with the Examiner's formal rejection of claim 3, it is respectfully submitted that the piston 8 has a second piston rod located partially in the plug which closes the right end of the cylinder. This second piston rod has the same diameter as the piston rod 9 of the piston 8. Therefore the features of claim 3 are shown in the drawings and also disclosed in the specification in the last paragraph on page 8. It is therefore believed that the Examiner's grounds for the rejection of claim 3 under 35 U.S.C. 112 should be considered as no longer tenable and should be withdrawn.

The claims have been amended as suggested by the Examiner in paragraphs 4 and 5 of the Office Action and therefore the Examiner's grounds for the rejection of the claims for formal reasons in these parts of the Office Action should be also considered as not tenable and should also be withdrawn.

Turning now to the Examiner's rejection of the claims over the art, it is respectfully submitted that the patent to Berneuil discloses an actuating system for a variable area exhaust nozzle. It shows a pair of pistons with a solid piston rod extending through hollow piston rod. One of the piston rods is connected to an inner flap and the other piston rod is connected to an outer flap, so that by selectively applying pressurized fluid the corresponding flaps are activated. The construction disclosed in this reference has nothing to do with the applicant's invention. First of all the actuating system for a variable area exhaust nozzle has nothing to do with fluid operated torque wrenches. The invention disclosed in Berneuil is classified in class 92, while the patent to Junkers, the primary reference applied by the Examiner is classified in class 81 which classes have nothing to do with one another. The Berneuil's invention clearly belongs to non analogous art. Moreover, the patent to Berneuil has a totally different objective, operates in a totally different manner and is based on a different

principle. While in the patent to Berneuil the different pistons and piston rods activate different flaps, in the applicant's invention as well as in the patent to Junkers the different piston rods activate the same element, which is a drive element.

A person of ordinary skill in the art would not combine the patent to Berneuil with the patent to Junkers since he will never be looking for solutions for fluid operated torque wrenches in the art related to exhaust nozzles. Secondly he would never look for solutions for a fluid operated torque wrench in which a single drive element is continuously turnable by two different mechanisms with two different pistons and piston rods, in an area where two different piston rods are used to activate different elements, the flaps. In order to impart any similarity to the construction disclosed in the patent to Berneuil the piston rods of the pistons of the construction disclosed in this reference must be connected to a single element for driving the same, which has nothing to do with the invention disclosed in this reference.

In connection with this the Examiner's attention is respectfully directed to the decision of Court of Customs and Patent Appeals in re Lobl, 108 USPQ 229, in which it was stated that:

"Notwithstanding difference in function, patent in non analogous art would be proper reference if it disclosed all the structure setforth in applicant's claim. However, rejection may not be based upon modification of patent's structure in view of another patent in non analogous art. Such references may not be combined to form basis for rejection since it is unlikely that one seeking to produce applicant's device would look to such non analogous art for suggestions."

It is believed that this decision is exactly applicable to the rejection in the present application. The patent to Berneuil belongs to non analogous art, it discloses a totally different structure and it is not combinable as a matter of obviousness with the patent to Junkers. If a combination is made physically, then in the patent to Junkers two different rods of two different pistons have to operate two different elements as in the patent to Berneuil.

In accordance with the present invention in the fluid operated torque wrench of the invention there is one cylinder housing and two ratchet-lever mechanisms. As the one piston moves the ratchet-lever mechanism to turn the ratchet forward, the other pistons moves the other ratchet-lever mechanism to ratchet backwards while the ratchet is being turned forward by the one piston. Therefore, with the same number of ratchet teeth as a regular wrench, which has just one forward stroke to turn the ratchet and reverse stroke to ratchet, each piston needs to move only half the distance and since one ratchet-lever mechanism is always engaged with the ratchet

tooth, less overstroke is necessary. While this can be achieved in the Junkers patent, the difference is that in the case of a major wind-up in the bolt, the pressurized fluid can be switched so as to return both ratchet-lever mechanisms instead of having go in opposite directions, so that the tool lets the bolt unwind and can be taken off. This is not possible with the Junker's patent as both pawls are dependent on one and the same lever mechanism.


It is believed that the patent to Junkers taken singly does not teach the new features of the present invention which are now defined in claim 1. As for the combination of the references proposed by the Examiner, it is believed that it can not be considered as obviousness, and the present invention can not be derived from such a combination.

Claim 1 should be considered as patentably distinguishing over the art and should be allowed. The same is true with respect to claim 4 which is somewhat different from claim 1, but basically includes the same main features.

Reconsideration and allowance of present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Any costs involved should be charged to the deposit account of the undersigned (No. 19-4675). Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,



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